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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

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EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re)	Case No. 10-30995-A-7
CURTIS and ELISA NICCUM,)	Docket Control No. GAR-3
)	Date: August 23, 2010
Debtors.)	Time: 9:00 a.m.
)	

MEMORANDUM

This Memorandum supplements the court's findings of fact and conclusions of law as stated in the Final Ruling appended to the minutes of the hearing conducted on August 23 in connection with the debtors' motion for sanctions against their former attorney.

In addition to limiting former counsel's ability to file electronically documents with the electronic signature designation, "/s/ Name", the court previously ruled that current counsel was entitled to reasonable and necessary fees and costs associated with making the motion. Both former and current counsel have now filed additional evidence regarding those fees and costs.

As to costs, none are awarded because none have been requested.

As to the attorney's fees, the court finds and concludes that the \$2,200 requested is excessive and unnecessary.

First, the underlying sanction motion was granted only in part. Much of what current counsel requested in the motion was

1 not allowed for the reasons explained in the Final Ruling. In
2 the court's judgment, had the debtors confined themselves to
3 relief that was appropriately requested by motion (as opposed to
4 an adversary proceeding) for former counsel's post-bankruptcy
5 behavior, the amount of time to file, serve, and prosecute the
6 motion should not have exceeded three hours.

7 Second, the hourly rate requested by current counsel, \$400,
8 is excessive. That rates charged for consumer chapter 7 work in
9 this court generally range from \$200 to \$350 per hour. The court
10 concludes that \$300 is a reasonable rate in this case considering
11 the experience of counsel and the nature of the dispute.

12 Third, the time billed in connection with the court
13 appearance on August 23 was unnecessary for two reasons: the
14 court permits telephone appearances; and, both counsel accepted
15 the court's tentative ruling. Current counsel's statement that
16 he was unaware that former counsel had accepted the tentative
17 ruling is unpersuasive. Given the obvious bad blood between both
18 counsel, all steps should have been taken to determine whether
19 the tentative ruling was acceptable. Current counsel should have
20 found time to either contact former counsel prior to the hearing
21 or read the email that had been sent to him by former counsel.

22 The court will award \$1,200 in reasonable fees. A separate
23 order will be entered.

24 Dated: 2 Nov 2010

By the Court



Michael S. McManus, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

CERTIFICATE OF MAILING

The undersigned deputy clerk in the office of the United States Bankruptcy Court for the Eastern District of California hereby certifies that a copy of the document to which this certificate is attached was mailed today to the following entities at the addresses shown below or on the attached list.

Office of the U.S. Trustee
Robert T Matsui United
States Courthouse
501 I Street, Room 7-500
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Stanley P. Berman
202 N Pine St
Nevada City, CA 95959

George A. Roberts
301 Broad Street
Nevada City, CA 95959

DATED: 11/3/10

By: 

Deputy Clerk

Destry Patching

EDC 3-070 (Rev. 6/28/10)